

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed November 14, 2006 ("*Office Action*"). At the time of the Office Action, Claims 1-27 were pending in the application. In the Office Action, the Examiner rejects Claims 1-5, 9-16, and 19-27. The Examiner objects to Claims 6-8 and 17-18. Applicants amend Claims 1, 4, 8, 12, 15-16, 18, 20, 22, 25, and 27. Applicants cancel Claims 5-7, 17, and 24. Applicants have added new independent Claim 28. Applicants respectfully request reconsideration and favorable action in this case.

Section 101 Rejections

Claims 20-26 are rejected under 35 U.S.C. §101 because the Office Action contends that the claimed invention is directed to non-statutory matter. Applicants have amended independent Claim 20 to recite logic embodied as a computer program stored on a computer readable medium. Applicants respectfully request withdrawal of these rejections.

Claim Objections

The Examiner objects to Claims 6-8 and 17-18 as being dependent upon a rejected base claim, but indicates that the claims would be allowable if rewritten in independent form, including all the limitations of the base claim and any intervening claims. *Office Action*, page 6. Independent Claims 1, 12, 20, and 27 have been amended to recite elements indicated as allowable. Accordingly, Applicants respectfully request reconsideration and allowance of Claims 1, 12, 20, and 27 and all claims depending therefrom.

New Claims

Applicants have added new independent Claim 28. Claim 28 includes elements similar to those originally in canceled Claim 5. No new matter has been added. The Examiner rejected Claim 5 under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent App. No. 2004/0027330, issued to Bradski et al. ("*Bradski*"). Applicants respectfully submit that Claim 28 is patentable over the cited references.

Claim 28 recites a motion controlled handheld device comprising a number of elements, including “a range finder operable to determine distance information including a distance between the device and an object in the video stream.” Applicants respectfully submit that *Bradski* fails to disclose, teach, or suggest these elements. In the rejection of original Claim 5, the Office Action suggests that *Bradski* discloses these elements. See *Office Action*, page 4. However, with respect to Figure 6 of *Bradski*, *Bradski* states “one or more external cameras 602 may determine the three-dimensional location and orientation of a mobile device 604a and 604b based on three or more markings 610, 612, and 614 on the mobile device 604a and 604b.” See *Bradski*, [0062]. There is no disclosure of a range finder or any other component determining distance information including a distance between the device and an object in the video stream. Therefore, for at least these reasons, Applicants respectfully submit that Claim 28 is patentable over the cited art used in the rejections.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Chad C. Walters, Attorney for Applicants, at the Examiner's convenience at (214) 953-6511.

Applicant authorizes the Commissioner to charge the fee of \$200.00 for adding one additional independent claim over three to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P. The Commissioner is also authorized to charge any additional fee or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

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